IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.2414 OF 2004

Dhula Hira Kolekar .... Petitioner
Vs.
State of Maharashtra & Ors. .... Respondents

Ms Smita R. Kadu/Gawai for the Petitioner.

Shri D.S. Mhaispurkar, A.P.P., for the State.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: MARCH 04, 2005

P.C:

Heard. Perusal of the impugned order discloses that the application for furlough leave filed by the petitioner has been rejected merely because there is apprehension that on such leave being granted to the petitioner, there is threat to the lives of the complainant and the witnesses. The apprehension expressed by the authority is without any basis and therefore refusal of the application on the said ground cannot be sustained and therefore the impugned order is liable to be set aside. Accordingly, the impugned is hereby set aside and the matter is remanded to the concerned authority to decide the application afresh, in accordance with the provisions of law.

The authority can call upon the petitioner to furnish a surety to the satisfaction of the concerned authority and even call upon the petitioner to get any Government employee in that regard. With these observations, the impugned order is hereby quashed and set aside and the matter is remanded to the concerned authority to decide the furlough application of the petitioner afresh, in accordance with the provisions of law. The authority to dispose of the application within a period of three weeks. Petition accordingly stands disposed of.

(R.M.S.Khandeparkar, J.)

(P.V.Kakade, J.)